

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

MATTHEW THOMAS ANDERSON,
DECEASED, THROUGH HIS SUCCESSOR
IN INTEREST, MINEKO SWEZEY; and
MINEKO SWEZEY, individually,

Plaintiff,

vs.

COUNTY OF SISKIYOU, a public entity;
SISKIYOU COUNTY SHERIFF'S
DEPARTMENT, a public entity; SISKIYOU
COUNTY SHERIFF RICK RIGGENS, in his
individual capacity and official capacities;
CAPTAIN JAMES BETT, individually;
DEPUTY CHRISTOPHER MILLER,
individually, RONALD BORTMAN, M.D.,
individually; STATE OF CALIFORNIA, a
public entity; NAPA COUNTY STATE
HOSPITAL, a public entity; DR. ED FOULK,
R.N., individually; DANA WHITE, R.N.,
individually; and DOES 1 through 10, Jointly
and Severally,

Defendants.

Case No: C 10-01428 SBA

**ORDER GRANTING COUNTY
DEFENDANTS' MOTION TO
TRANSFER**

Docket 41

This action arises from the death of Matthew Thomas Anderson ("Anderson"), who committed suicide while in custody at the Siskiyou County Jail. The parties are presently before the Court on the County of Siskiyou and related parties' motion to transfer venue to the Eastern District of California, pursuant to 28 U.S.C. § 1404(a). Dkt. 41. Having read and considered the papers filed in connection with this matter and being fully informed, the Court hereby GRANTS the motion for the reasons set forth below. The Court, in its discretion, finds this matter suitable for resolution without oral argument. See Fed.R.Civ.P. 78(b); N.D. Cal. Civ. L.R. 7-1(b).

1 **I. BACKGROUND**

2 On July 15, 2008, Anderson, a schizophrenic with bipolar disorder, was in front of a
3 Jack-in-the-Box restaurant in or near Siskiyou County, California, and began manifesting
4 signs of his mental illness. First Am. Compl. (“FAC”) ¶¶ 15-16. Officers from the
5 Siskiyou County Sheriff’s Department (“Sheriff’s Department”) appeared at the scene and
6 shot Anderson with a taser, and then placed him in a four-point restraint. Id. ¶ 16.
7 Anderson was then transported to the emergency room at Airchild Medical Center. Id.
8 After being released from the hospital, he was booked into the Siskiyou County Jail and
9 criminally charged. Id. While in jail, Anderson’s mental health condition worsened and he
10 became suicidal. Id. ¶ 17. As a result, Anderson was transferred to Napa State Hospital for
11 treatment on September 11, 2008. Id. After his condition stabilized and improved,
12 Anderson was returned to the Siskiyou County Jail on February 25, 2009. Id.

13 On March 27, 2009, the Siskiyou County Superior Court judge presiding over
14 Anderson’s criminal case found him mentally incompetent to stand trial. Id. ¶ 18. The
15 judge ordered the Sheriff’s Department to return Anderson to Napa State Hospital for care
16 and treatment by no later than April 3, 2009. Id. Despite having received notice of the
17 court’s ruling, officials at Napa State Hospital allegedly refused to comply with the order
18 and denied him admission to the facility, without referring him to another place for
19 treatment. Id. As a result, Anderson remained at the Siskiyou County Jail. Id. While in
20 custody, Sheriff’s Department officials allegedly refused to provide Anderson with access
21 to emergency medical and psychiatric care and treatment. Id. Sadly, Anderson’s condition
22 worsened and he committed suicide on April 9, 2009. Id. ¶ 21. On June 1, 2009, the state
23 court held Napa State Hospital and its Executive Director, Dr. Ed Foulk, in contempt of
24 court for failing to admit Anderson to their facility, as ordered. Id.

25 **A. PROCEDURAL HISTORY**

26 On April 5, 2010, Anderson’s mother, Mineko Swezey, both individually and as a
27 successor in interest to Anderson’s estate, commenced the instant action in this Court for
28 deliberate indifference to serious medical needs, pursuant to 42 U.S.C. § 1983, among other

1 claims. With leave of Court, Plaintiff filed a First Amended Complaint (“FAC”) on
2 September 20, 2010, against Siskiyou County, the Sheriff’s Department, Siskiyou County
3 Sheriff Rick Riggins, Deputy Christopher Miller, Captain James Bett and Dr. Robert
4 Bortman (collectively, “County Defendants”), all of whom allegedly were involved in
5 denying Anderson the requisite treatment while in their custody at the Siskiyou County Jail.
6 In addition, Plaintiff has sued the State of California, Napa State Hospital, Dr. Foulk and
7 Dana White, R.N. (collectively, “State Defendants”), based on their refusal to provide
8 treatment to Anderson.

9 County Defendants now move to transfer the instant action to the Eastern District of
10 California on the grounds that the key events occurred and most of the witnesses in this
11 case are located in Siskiyou County, which lies within the Eastern District. Plaintiff, an
12 Oregon resident, opposes the proposed transfer, and claims that her choice of forum is
13 entitled to substantial deference, and that this District is more convenient for her counsel.
14 The State Defendants have filed a statement of non-opposition. The matter has been fully
15 briefed and is ripe for determination.

16 **II. LEGAL STANDARD**

17 Title 28 of the United States Code, section 1404(a), provides that “[f]or the
18 convenience of parties and witnesses, in the interest of justice, a district court may transfer
19 any civil action to any other district or division where it might have been brought.” In
20 exercising its discretion under § 1404, the court may consider the following, if appropriate:

21 (1) the location where the relevant agreements were negotiated
22 and executed, (2) the state that is most familiar with the
23 governing law, (3) the plaintiff’s choice of forum, (4) the
24 respective parties’ contacts with the forum, (5) the contacts
25 relating to the plaintiff’s cause of action in the chosen forum,
(6) the differences in the costs of litigation in the two forums,
(7) the availability of compulsory process to compel attendance
of unwilling non-party witnesses, and (8) the ease of access to
sources of proof.

26 Jones v. GNC Franchising, Inc., 211 F.3d 495, 498-99 (9th Cir. 2000). “The court has the
27 broad discretion to address some of these or other factors based on the particular facts of
28 each case.” Johansson v. Central Garden & Pet Co., No. No. C 10-03771 MEJ, 2010 WL

1 4977725, at *2 (N.D. Cal. Dec. 2, 2010) (James, J.) The burden is on the moving party to
2 demonstrate that the present forum is “inappropriate.” Commodity Futures Trading
3 Comm’n v. Savage, 611 F.2d 270, 279 (9th Cir. 1979).

4 **III. DISCUSSION**

5 **A. PLAINTIFF’S CHOICE OF FORUM**

6 Plaintiff does not dispute that this action “might have been brought” in the Eastern
7 District, 28 U.S.C. § 1404(a), but nonetheless argues that her choice of forum is entitled to
8 “substantial” deference. Pl.’s Opp’n at 9-10. As a general matter, Plaintiff is correct that a
9 plaintiff’s choice of forum should be afforded deference when the district court is
10 considering a motion to transfer under 28 U.S.C. § 1404. See Decker Coal Co. v.
11 Commonwealth Edison Co., 805 F.2d 834 (9th Cir. 1986) (“the defendant must make a
12 strong showing of inconvenience to warrant upsetting the plaintiff’s choice of forum.”).
13 However, less weight has been accorded to this factor where, as in the present case,
14 Plaintiff does not reside in this District. See Gemini Capital Group, Inc. v. Yap Fishing
15 Corp., 150 F.3d 1088, 1091 (9th Cir. 1998) (finding that a plaintiff’s choice of forum is
16 entitled to significantly less deference when that forum is not the plaintiff’s home forum).
17 The fact that Plaintiff has relatives who reside in this District, Swezey Decl. ¶ 5, does not
18 alter the fact that she does not.

19 The deference otherwise accorded to the plaintiff’s choice of forum is further
20 undermined by the minimal nexus between this District and the events that form the basis
21 of the action. See Metz v. U.S. Life Ins. Co. in City of New York, 674 F. Supp. 2d 1141,
22 1146 (C.D. Cal. 2009) (“Deference to the plaintiff’s choice of venue is further diminished
23 if ... the operative facts have not occurred within the forum”). Although some of Plaintiff’s
24 claims involve Napa State Hospital, which lies within the Northern District, the core
25 allegations of the FAC center on Anderson’s treatment while in Siskiyou County Jail,
26 where he committed suicide. See FAC ¶¶ 16-21. Moreover, it is noteworthy that
27 Plaintiff’s claims against Napa State Hospital and its staff are not based on Anderson’s
28 treatment at that facility; but rather, their alleged refusal to treat him. While this District

1 clearly has *some* connection to this lawsuit, the majority of the salient conduct and
2 omissions transpired in Siskiyou County, which lies in the Eastern District. Given that
3 finding, coupled with the fact that Plaintiff resides outside this District, the Court concludes
4 that Plaintiff's choice of forum is entitled to minimal deference.

5 **B. CONVENIENCE OF THE PARTIES AND WITNESSES**

6 The fact that most of the critical events occurred in the Eastern District also informs
7 the Court's analysis regarding whether this or the Eastern District is a more convenient
8 forum for the parties and witnesses. As noted, all of the major events leading up to
9 Anderson's suicide occurred in or around Siskiyou County, where all of the County
10 Defendants are located. This is supported by the County Defendants' identification of
11 seventy-seven witnesses, the vast majority of whom reside in Siskiyou County, who
12 allegedly have information germane to Plaintiff's claims. See Price Decl. Ex. A, Dkt. 41-4.
13 Plaintiff counters that a significant number of these witnesses' proposed testimony is
14 irrelevant and cumulative. Pl.'s Opp'n at 13-14. While perhaps true, the Court notes that,
15 rather tellingly, Plaintiff neglects to identify any non-party witnesses who reside in this
16 District. The only witnesses in this District are the State Defendants, who do not oppose
17 transfer.

18 Finally, Plaintiff complains that travelling to the Eastern District will be more
19 inconvenient and expensive for her attorneys, who are located in this District. Pl.'s Opp'n
20 at 10. However, the convenience of counsel is not a relevant consideration on § 1404(a)
21 motion to transfer. See Roling v. E*Trade Secs., LLC, --- F. Supp. 2d ----, 2010 WL
22 4916401, at *4 (N.D. Cal. Nov. 22, 2010) ("convenience of counsel is not considered in
23 ruling on a section 1404(a) transfer motion") (citation and internal quotations omitted).

24 **IV. CONCLUSION**

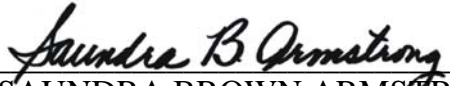
25 At bottom, the Court finds that the convenience of the parties and witnesses and the
26 interests of justice outweigh the deference accorded to Plaintiff's choice of forum.

27 Accordingly,
28

1 IT IS HEREBY ORDERED THAT the County Defendants' Motion to Transfer is
2 GRANTED. The Clerk shall transfer the instant action forthwith to the Eastern District of
3 California, and shall terminate any pending dates and docket matters.

4 IT IS SO ORDERED.

5 Dated: January 11, 2011


6 SAUNDRA BROWN ARMSTRONG
7 United States District Judge
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